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In re the Matter of:) Case No.: 07-093
)
State of New Hampshire Banking) Adjudicative Hearing Decision:
) Order to Pay Fines
Department,)
)
Petitioner,)
)
and)
)
Mortgages Unlimited Corporation,)
)
Respondent)
)

DECISION

After an Order to Show Cause with Immediate Suspension was issued in the above-captioned matter by the New Hampshire Banking Department, Presiding Officer Maryam Torben-Desfosses conducted a hearing on July 24, 2007. At the hearing, Hearings Counsel James Shepard presented a Stipulation (made herein Exhibit "Stipulations"), executed by both parties on July 24, 2007. Based on the parties' stipulations to the facts of the case, the proposed findings of fact and conclusions of law submitted by Jim Shepard and the statement submitted by Respondent, the undersigned issues the following decision.

FACTUAL FINDINGS

A. FINANCIAL STATEMENTS

1. Mortgages Unlimited Corporation (hereinafter "Respondent") is licensed by the New Hampshire Banking Department (hereinafter "Department") as a Mortgage Banker and at all times relevant to this action held a

1 Department license since 1986. [*Stipulation 1 and verbal testimony of*
2 *Mr. Charles A. Rheinhardt*].

3 2. The Respondent submitted a financial statement for fiscal year end
4 August 31, 2006 with the following omissions: an attestation, an income
5 statement, a statement of changes in owner's equity and a cash flow
6 statement. [*Stipulation 3, Exhibit 1 (entitled "Respondent's Profit and*
7 *Loss Statement") and Exhibit 2 (entitled "Respondent's Balance*
8 *Sheet")*].

9 3. The Department wrote twice to the Respondent requesting Respondent fix
10 the financial statement submission. [*Stipulation 4, Exhibit 3 (entitled*
11 *"January 3, 2007 Department Letter", and Exhibit 7 (entitled "March 2,*
12 *2007 Department Letter")*].

13 4. The Respondent failed to respond to the letters prior to the initiation
14 of the Department's administrative action. [*Stipulation 5 and verbal*
15 *testimony of Mr. Charles A. Rheinhardt*].

16 5. During the past five years the Respondent has submitted incomplete
17 financial statements, of which the Department only communicated
18 objections to the 2004 filing and the subject filing. [*Stipulation 6*].

19 6. The Respondent amended its license to act as a Mortgage Broker after
20 initiation of the Department's administrative action. [*Stipulation 7*].

21 7. The Respondent's submitted financial statement for fiscal year end
22 August 31, 2006 would have been sufficient for a Mortgage Broker if
23 attested to by a duly authorized officer. [*Stipulation 8*].

24 8. The Department has no record of any administrative action ever being
25 taken against Respondent. [*Stipulation 12*].

B. SURETY BOND

1. On or about January 19, 2007, Hanover Insurance Group notified the Department of the Respondent's surety bond cancellation, the cancellation to be effective February 8, 2007. [*Exhibit 4 (entitled "Surety Bond Cancellation Bond No: BLA-1747902") and Exhibit 5 (entitled "Surety Bond Cancellation Bond No: BLA-1747903")*].
2. The Respondent allowed his surety bonds (BLA-1747902 and BLA-1747903) to lapse and thus, to be cancelled. [*Stipulation 9, Exhibit 4 (entitled "Surety Bond Cancellation Bond No: BLA-1747902") and Exhibit 5 (entitled "Surety Bond Cancellation Bond No: BLA-1747903")*].
3. The Department mailed correspondence notifying the Respondent of the surety bond cancellation and need to reinstate such bonds. [*Stipulation 10, Exhibit 6 (entitled "February 12, 2007 letter" and Exhibit 7 (entitled March 2, 2007 letter")*].
4. The Respondent failed to respond in any way to the Department prior to the initiation of administrative action. [*Stipulation 11 and verbal testimony of Mr. Charles A. Rheinhardt*].
5. The Department has no record of any administrative action ever being taken against Respondent. [*Stipulation 12*].

CONCLUSIONS OF LAW

1. Respondent knowingly violated RSA 397-A:13, II by the repeated failure to file a complete financial statement.
2. Respondent knowingly violated RSA 397-A:13, VI by the repeated failure to respond to Department inquiries regarding the incomplete financial statement.

1 3. Respondent knowingly violated RSA 397-A:5, III(c) by failing to keep
2 its two surety bonds current.

3 4. Respondent knowingly violated RSA 397-A:13, VI by the repeated failure
4 to respond to Department inquiries regarding the two cancelled surety
5 bonds.

6 5. RSA 397-A:21, II authorizes the Commissioner to suspend, revoke, or
7 deny a license for any violation of the RSA Chapter 397-A, as well as
8 assess a fine of \$2,500.00 for each knowing violation.

9
10 **ORDER**

11 Having considered the evidence submitted by the parties and the Presiding
12 Officer, it is this 8th day of August, 2007 ORDERED:

13 1. Pursuant to New Hampshire Administrative Rule 204.13(e), entitled
14 "Decisions", I find only in favor of the Department on the proposed
15 findings of fact submitted by Hearing Counsel James Shepard.

16 2. Mortgages Unlimited Corporation is hereby assessed a fine in the amount
17 of \$10,000.00; and

18 3. \$3,000.00 of that fine is hereby TEMPORARILY SUSPENDED on the condition
19 that Respondent shall commit no further infractions of RSA Chapter 397-
20 A and shall respond to all Department inquiries in an expeditious
21 manner for a period of two years.

22
23
24 Dated: 8/8/07

25 /S/
Peter C. Hildreth
Bank Commissioner